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After all possible weight has been given to the argument from the term itself, it is hard to see how the last proposition can be made to comport with the essential fact that interest is an ancient "social phenomenon," and that, in Rome, at least, the struggle against usury seems to have moved almost *pari passu* with the progress of early agrarianism.

The most useful function of a writer whose radical socialism leads him to attack the family as the social unit, is to disgust sober thinkers with his doctrine. That something in this direction has been done in "The Evolution of Property," will easily be seen from such statements as—"the patriarchal family is likewise disintegrated and superseded by the modern family; a sorry remnant, destined, ere long, to disappear," and "The worn-out phrase 'The family is the pillar of the state,' which modern moralists and politicians reiterate *ad nauseam* since it has ceased to be exact, was at one time an adequate expression of the truth." The mischievous spirit of the book, which breaks out in these remarks, is aggravated by a supreme contempt for recognized authorities, showing itself in such expressions as "the Giffens, Roschers, Leroy-Beaulieus, and other such small fry of political economy."

The style of the English translation is, on the whole, good; blemishes like the use of "*restitute*" as a verb for *restore* seem to have been accidental.

To sum up, the book is worth reading only to those who have discrimination enough to understand what is bad in it, and patience enough to glean out the good.

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GEORGE P. GARRISON.

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LECTURES ON THE CONSTITUTION OF THE UNITED STATES. By SAMUEL FREEMAN MILLER, LL.D., late an Associate Justice of the Supreme Court of the United States. Pp. xxi, 765. New York and Albany: Banks & Brothers, 1891.

This posthumous work of the late Justice Miller is in many respects a notable volume. It is, first of all, the

deliberate teachings of a great jurist who has had no superior upon the bench of the Supreme Court since the days of Marshall and Washington and Story. It represents the judicial experience and study of over a quarter of a century, and was originally addressed to a body of young men just entering upon their professional career. It is characterized by vast learning, clear analysis, a masterful touch, a strong and simple style, and a calm and admirable temper. It is firm in its tone, whether of commendation or criticism, and above all it breathes a spirit of hope, and even at times of well-founded exultation. The prophet of unrest or of despair will find no support in these lectures.

The volume has had a careful and discriminating editor in Mr. J. Bancroft Davis, whose supplementary notes, appended to each lecture, will be found hardly less valuable than the lectures themselves. Nor, perhaps ought one to overlook the generous and almost sumptuous style in which the publishers have performed their part of the work. In matter, in editing, and in mechanical execution, the volume is a worthy memorial of the great jurist who has passed away.

The lectures of Mr. Justice Miller are twelve in number, and occupy somewhat more than one-half of the volume. Ten of these lectures were delivered before a class of law students at the National University in Washington. One of them was delivered before the Alumni of the Law School of the University of Michigan, and one is, in substance, the oration delivered at Philadelphia at the one hundredth anniversary of the framing of the Constitution. This statement will make it clear that this volume is in no sense to be regarded as a comprehensive treatise on Constitutional law. The ten lectures delivered before the Law School have, indeed, a certain continuity and completeness, and yet some of these were evidently written at widely different periods and possess among themselves differing degrees of elaboration. The work may justly be regarded as a series of monographic commentaries on selected features of the Con-

stitution. This fact is recognized by the editor, who, in a supplementary chapter, has briefly treated many of the subjects omitted in the author's lectures. The character of the work and the probable purpose of the author have resulted in a very sparing citation of cases, a circumstance which will not be regretted by the general reader or those students who desire to have their attention directed only to the great landmarks of our Constitutional history. In order, however, that the book may prove of equal value to the investigator and the practitioner, the editor has brought together in his supplemental notes and in the annotated constitution, which is included in the appendix, most of the decided cases. It should also be noted in passing that the appendix contains collated and certified copies of the Articles of Confederation, the resolutions offered by Randolph in the Constitutional Convention, and the plan submitted by Pinckney to the same body, or rather the plan which, thirty years later, he thought he had submitted to that body.

Among the topics treated by Justice Miller, those relating to taxation, inter-state commerce, and the impairment of the obligation of contracts, will naturally be the first to attract attention. The clauses governing these subjects, more than any others in the Constitution, have called for the frequent construction of the Supreme Court. More than any others they touch the vast business and industrial interests of the country. In the construction of each, Justice Miller had a large and influential part. The first opinion delivered by him after he took his seat on the bench (*Wabash, etc., Co., vs. Beers*, 2 Black, 448) applied the contract clause for the protection of certain bondholders, whose interests were imperilled by an act of the Legislature of Indiana. From that time until he finally laid aside his judicial robes he was called upon many times to apply some one of these provisions. His views upon the powers of Congress over inter-state commerce were early set forth in the *Clinton Bridge* case (1 Woolworth, 150), a decision which has ever since been regarded by the legislative department of the Government as

a cogent argument in favor of its power to regulate interstate railway traffic. In the first legal-tender case (*Hepburn vs. Griswold*, 8 Wall., 603) he delivered the dissenting opinion, and he concurred in the opinion which overruled that case (*Knox vs. Lee*, 12 Wall., 457). In the volume before us a separate lecture is given to each of these three subjects of taxation, commerce, and the impairment of the obligation of contracts, and they also come in for a large share of attention in the lectures on related subjects, especially in those on the Supreme Court and the limitation upon the powers of the states. Altogether fully a third of the space occupied by the lectures is devoted to a discussion of these three important topics. It is to be regretted, however, that the lectures on "The Regulation of Commerce" and "The Impairment of the Obligation of Contracts," which were evidently written as much as eight or ten years ago, did not receive the personal revision of the author before his death. Valuable as are the supplementary notes of the editor, all students would be glad to have the final word of the eminent author on these important subjects of constitutional law.

Upon one point Justice Miller always dissented from the opinion of the majority of the Court, and in his lectures he further emphasizes that dissent. While entertaining the opinion that the protection afforded by the Constitution to contracts with states has been in the main a great bulwark against unjust legislation, he does not hesitate to say that in his judgment all such contracts as have for their purpose the exemption of individuals or corporations from taxation are not within the protection of that clause, for the reason that it is "not within the constitutional power of one legislature to limit the taxing power of a succeeding one." In this dissent, it may be added, he has had the support of such eminent associates and predecessors as Chief Justice Chase, Justices Field, Catron, Daniel and Campbell, and to a great extent, Chief Justice Taney.

Next to these lectures, those upon "The Judicial Power," "The Supreme Court," and "The Principles of Construc-

tion of the Constitution," will be most eagerly read. That upon the Supreme Court is a resumé of some of the most important decisions rendered by that tribunal. It is neither exhaustive nor even fairly complete. So important and fundamental a decision as that in *Texas vs. White* (7 Wall., 700) is not only not included in this lecture, but is not even referred to anywhere in the other lectures or the supplementary notes. Yet, notwithstanding these omissions, the lecture, in its method, its fine temper, and its eupeptic tone, is a noble contribution to the worthy literature on our republican institutions. It closes with a fine tribute to the nation which, in the midst of the most bitter controversies, "always submits to the law as expounded by its judiciary." Such a tribute from one who has sat upon the bench of the most illustrious tribunal in the world for upward of thirty years, and has been associated with four of its eight chief justices, is calculated to give fresh hope to those whose ears have almost been deafened by the dolorous clamor of the latter-day prophets of despair.

Such a volume is a pledge to the future. In these days, when restless and impetuous spirits are abroad in the land, when the ancient veneration for the work of the fathers seems at times to be disappearing, when patriotism expends itself in denunciation and destruction, and sacrilegious hands grasp even at the ermine, it is tonic and restorative to turn to the calm, the solidity, and the luminousness of a work like this. The words of the lamented jurist himself may fittingly sum up the whole spirit and teaching of these noble lectures: "While I \* \* \* feel it impossible to express my admiration and my love for the Constitution of the United States, and my profound belief that the wisdom of man, unaided by inspiration, has produced no writing so valuable to humanity, I should fail of a most important duty if I did not say on this public occasion, that no amount of wisdom in a constitution can produce wise government, unless there is a suitable response in the spirit of the people."

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